

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Dresti et al.	)	Examiner:	Huynh, Son P.
		)		
Application No.:	10/749,089	)	Art Unit:	2623
		)		
Filing Date:	December 30, 2003	)	Attny Doc.:	81230.87US2
		)		
Title:	USER INTERFACE FOR A	)		
	REMOTE CONTROL	)		
	APPLICATION	)		

REPLY BRIEF

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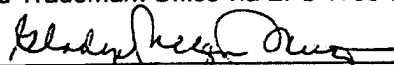
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Commissioner for Patents  
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Alexandria, VA 22313-1450

Dear Sir:

Appellant hereby submits this Reply Brief in response to the Examiner's Answer of April 14, 2009.

The Commissioner is hereby authorized to charge any fee deficiency or credit overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

Certificate of Electronic Transmission: I hereby certify that this document is being transmitted electronically to the U.S. Patent and Trademark Office via EFS-Web on this 11th day of May, 2009.

  
Gladys Negron-Munoz

## REMARKS

In accordance with 37 CFR §§ 41.41(a)(1) and 41.43(b), Appellant hereby submits this Reply Brief to respond to arguments raised by the Examiner in the Examiner's Answer of April 14, 2009.

In the Examiner's Answer, it was again asserted that the combination of Ellis and Baker discloses the invention claimed because, in Ellis:

(a) "a library of command codes for use in commanding operations of a plurality of appliances must be stored in the memory (e.g., storage 56) of the remote access device so that when the user select a button/key using the remote access device 24, a particular device at the user television equipment performs appropriate operation (e.g., recording, setting reminder, generate favorite program guide, tune to channel, change volume, etc.) in response to the command from the remote access device" (Ex. Ans.; pg. 5); and

(b) "each of the plurality of icons within the favorites page is inherently assigned with at least one command code from the library of command codes stored in the memory of the remote control device (for example, channel icon is assigned with the channel command code, reminder button is assigned with reminder command code, recording button is assigned with recording command code, etc.) so that when an icon/button on the screen is selected, a function assigned to the selected button is performed" (Ex. Ans.; pg. 6).

While it was asserted that Ellis *must* and *inherently* include these claimed elements, it was again acknowledged that Ellis does not explicitly disclose the remote control directly commands operations of a plurality of appliances. (Ex. Ans.; pg. 7). It is the position of Appellant that, by this omission, it simply cannot be said that Ellis *must* or *inherently* include the claimed elements associated with "assigning to each of the plurality of icons within the favorites

page at least one command code from the library of command codes stored in the memory of the remote control device, the at least one command code assigned to each of the plurality of icons being appropriate for causing an intended target one of the plurality of appliances to tune to the channel associated with each of the plurality of icons when transmitted from the remote control device...to the intended recipient one of the plurality of appliances.” In this regard, it is the position of Appellant that nothing within Ellis discloses, teaches, or suggests that the remote access device of Ellis is equivalent to the claimed universal remote control device, i.e., a remote control having a memory in which is stored *a library of command codes* for use in commanding *operations of a plurality of appliances*, such as cable boxes, televisions, etc.

To support the conclusion that Ellis *must* and *inherently* include the above claimed elements, the Examiner’s Answer set forth that:

It is not necessary that a remote control, which has a library of command codes for use in commanding operations of a plurality of appliances, must has capability to directly commanding operations of an appliance. The remote control that is capable of commanding operations of an appliance by sending command to the appliance via other network/device or other component. For example, a remote control device controls a recording device by sending command code via a set top box or television distribution facility and the set top box or television distribution facility relays the command code received from the remote access control to the recording device commanding operations of the appliance (figures 2b, 6b).

(Ex. Ans.; pg. 14)

In response to this further assertion, it is first respectfully submitted that neither Fig. 2b nor Fig. 6b of Ellis illustrate the remote access device 24 of Ellis sending a remote control command code to the television distribution facility 16 with the television distribution facility 16 then “relaying” the command code to an appliance to thereby control the appliance as asserted. Furthermore, it is respectfully submitted that nowhere within the disclosure of Ellis is this “relaying” operation explicitly described. Accordingly, because it is most likely that the remote

access device 24 of Ellis merely notifies the television distribution facility 16 that a channel icon, reminder button, or the like was selected on the remote access device 24 (just as if the channel icon, reminder button, or the like was locally selected - *see*, for example, para. 0022 of Ellis wherein it is described that each separate appliance located within the home is to be associated within its own interactive program guide and each interactive program guide, *while remotely accessible*, is primarily designed to be operated locally) with the television distribution facility 16 then responding to the reported button activation event to create and issue commands to control the appliances as programmed, i.e., no "command codes" appropriate for commanding an appliance are provided to the remote access device, just a communication indicating a particular button has been activated, it is respectfully submitted that it simply cannot be said the Ellis necessarily discloses the claimed elements of *assigning* to each of the plurality of icons of a favorites page displayed in a remote control *at least one command code from a library of command codes for use in commanding operations of a plurality of appliances stored within a memory of a remote control device* where the assigned command code is appropriate for causing an intended recipient one of the plurality of appliances to tune to a channel as is required of inherency. Accordingly, because it has been admitted that Ellis does not expressly describe these claimed elements and it has been demonstrated that it cannot be said the these claimed elements are inherently found within Ellis, it is respectfully submitted that the combination of Ellis and Baker cannot support a *prima facie* case of obviousness and the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

It was additionally questioned in the Examiner's Answer "if the remote access device only needs to store the 'event data' and provide 'event data' to controlling device as argued by the Appellant, how can only device(s)/location selected by the remote access device performs

function in response to user selection of a button using remote access device?" (Ex. Ans.; pg. 19). In response, it is respectfully submitted that it has been described in Appellant's Appeal Brief and repeated above that, to cause a selected device to perform a function, the remote access device 24 of Ellis need only provide to the television distribution facility 16 a notification that a particular key has been selected whereupon *the television distribution facility* 16 will respond to the key selection notification event to create and transmit commands to appropriate devices according to its programming. Thus, because the remote access device 24 of Ellis need not have a library of command codes for commanding operations of a plurality of appliances that would be "relayed" by the television distribution facility 16 but need only function as a remotely located keypad/touchscreen providing keypad/touchpad signals to the television distribution facility 16, it is respectfully submitted that the rhetorical question posed in the Examiner Answer does not serve to evidence that Ellis "inherently" discloses the subject matter claimed as asserted.

It is finally, again respectfully submitted that the espoused modification of Ellis to thereby allow the remote access device to transmit commands directly to an appliance "in order to reduce delay" would impermissibly remove from Ellis the functionality that is intended to be provided by the local interactive television program guide. While Ellis may note that "various modifications can be made by those of skilled in the art," it is respectfully submitted that nowhere does Ellis disclose, teach, or suggest removal of the interactive program guide which, as discussed in Appellant's Appeal Brief, is the core element of the system of Ellis. Furthermore, to the extent that it has been argued that modifying Ellis according to Baker to directly control appliances "would not change the functions of displaying a program guide page on the remote control device and using remote control device to command operations of multiple devices in

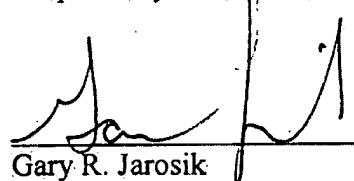
Ellis" (Ex. Ans.; pg. 19), it is respectfully noted that the proposed modification would, in fact, change the manner in which the system of Ellis is intended to command appliances in operation - *see*, for example, para. 0022 of Ellis wherein it is described that each separate appliance located within the home is to be associated within its own interactive program guide and each interactive program guide, *while remotely accessible, is primarily designed to be operated locally*.

Accordingly, because the modification espoused within the rejection of the claims would remove from each appliance the interactive program guide and all control functionality provided thereby in favor of a centrally located remote control device, it is submitted that the espoused modification can only be seen as impermissibly changing the very principle by which the system of Ellis is intended to operate. For this additional reason it is respectfully submitted that the combination of Ellis and Baker cannot support a *prima facie* case of obviousness under 35 U.S.C. § 103 and must be withdrawn. (*see* MPEP § 2143.01IV).

Respectfully Submitted;

Date: May 11, 2009

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